

Exhibit 13

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 Action No: 05cv4622(DGT)(MDG)
4 -----
5 TZVI WEISS, et al.,
6 Plaintiffs,
7 against
8 NATIONAL WESTMINSTER BANK, PLC.,
9 Defendant.
10 -----
11 NATAN APPLEBAUM, et al.,
12 Plaintiffs,
13 against
14 NATIONAL WESTMINSTER BANK, PLC.,
15 Defendant.
16
17
18 VIDEOTAPED DEPOSITION OF IRVINE RODGER
19 Thursday 22 July 2010
20 At: 10:00 am
21 Taken at:
22 Cleary, Gottlieb, Steen & Hamilton LLP
23 55 Basinghall Street, London
24 United Kingdom
25
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29 HIGHLY CONFIDENTIAL 2

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3	DIRECT EXAMINATION BY MR.6
4	GOELMAN:
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1 terrorist organizations?

2 MR. LUFT: Objection, vague and ambiguous and

3 calls for speculation.

4 A. I don't know really.

5 Q. Mr. Cole writes in the next paragraph:

6 "I think any decision to keep/close the account

7 must be carefully made, as closing the account without an

8 identifiable reason will most probably result in adverse

9 media attention. Also, if a terrorism related payment is

10 identified as being made, we again would suffer untoward

11 regulatory/media attention".

12 Did you understand in May 2004 that it was

13 CBFM's decision as to whether or not to allow Interpal

14 to continue to bank with RBS?

15 A. The decision to allow the account to stay

16 open would ultimately have rested with the Group

17 Compliance team. They are the people that have got the

18 power. CBFM, from a business angle, whether they wanted

19 to continue operating the account, the advice my team

20 gave was that we could manage the account.

21 Q. But you are saying that the ultimate

22 decision on whether or not to allow Interpal to continue

23 to bank with RBS was not CBFM's, is that correct?

24 A. Yes.

25 Q. It was Group's?

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1 A. If Group didn't want the account to remain

2 open, it would be within Group's gift to say "No, close

3 it."

4 Q. And you would have had to comply?

5 A. We would have had to comply.

6 Q. Mr. Cole writes you and others that:

7 "Closing the account without an identifiable

8 reason will most probably result in adverse media

9 attention."

10 Did you have an understanding -- first of all, did

11 you agree with that in May 2004, that closing the account

12 without an identifiable reason would probably result in

13 adverse media attention?

14 MR. LUFT: Objection.

15 A. Yes.

16 Q. And why was that your belief?

17 A. The position of the Muslim minority in

18 this country. They generally feel isolated and

19 sidelined and they would regard a national bank closing

20 down what they would regard as a good Muslim charity as

21 an aggressive act. You have got people like George

22 Galloway who would highlight that to the media. It was

23 unnecessary in my mind because the charity itself was

24 operating, as far as we could tell, were operating well.

25 Q. When you say "an aggressive act", what do

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1 you mean by that?

2 A. What is the context of me saying that?

3 Q. "The Muslim minority would regard

4 a national bank closing down what they would regard as a

5 good Muslim charity as an aggressive act?

6 A. I think I would say, first of all,

7 elements of the Muslim minority, by no means the whole

8 Muslim minority, they would regard it as another example

9 of a Muslim organization being picked on.

10 Q. Were you concerned about being accused

11 of -- strike that. Were you concerned about the bank

12 being accused of anti-Muslim discrimination, if it

13 ordered the account closed?

14 A. The answer to that is no, if there was

15 grounds for it to close then there would be absolutely

16 no problem at all, but if there were no grounds then

17 potential.

18 Q. There is a potential to be accused of

19 being bigoted against Muslims?

20 A. Yes.

21 Q. And that was something that you were

22 concerned about in May 2004?

23 A. If I just go back, the way the questioning

24 is going is not helpful. A closure of Interpal without

25 reason would not be -- could be perceived to be bigoted

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1 to Muslims.

2 Q. Was that a concern of yours in May 2004?

3 A. I suspect it was something which I would

4 have believed, yes.

5 Q. You have talked about an identifiable

6 reason to close the account and how the absence of such

7 a reason might result in adverse publicity, correct?

8 MR. LUFT: Objection, misstates his prior

9 testimony.

10 A. Just to make it clear, closing the

11 account, the account would be closed without any

12 hesitation if grounds were there to close it, regardless

13 of any Muslim feeling. There is no way would that

14 account be kept open if the account was -- Interpal was

15 funding Hamas.

16 Q. Earlier you said the answer to that is

17 "No, if there was grounds for it to close there would be

18 absolutely no problem at all, but if there are no

19 grounds then the potential", and something about being

20 accused of being bigoted against Muslims. So is it your

21 belief that if there was an identifiable, as Mr. Cole

22 calls it, an identifiable reason to close the account,

23 then the bank would not be risking that backlash that

24 you described?

25 MR. LUFT: Objection, misstates the prior

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1 testimony, confusing.

2 A. The bank would not keep the account open

3 if it was funding terrorism, end of story, absolutely no

4 doubt.

5 Q. My question was whether you believed

6 in May 2004 that if there was an identifiable reason for

7 the bank to close the account then there wouldn't be the

8 same risk of negative publicity that you talked about

9 for if the bank closed it without an identifiable

10 reason?

11 A. If there was an identifiable reason to

12 close the account then there would be no concerns

13 regarding the Muslim minority. It would be irrelevant,

14 because the key thing is the financing of terrorism.

15 Q. And you did not regard the designation by

16 OFAC of Interpal as an SDGT to be an identifiable reason

17 to close the account. Is that true?

18 A. It was Bank of England did not regard then

19 that designation as being a reason to list Interpal. It

20 was not my decision. I am not GOFI. The resources of

21 Bank of England and OFAC can make that judgment, so all

22 you can do is rely on others that do.

23 Q. Are you saying that the only identifiable

24 reason to close the account would be if Bank of England

25 listed Interpal as a terrorist organization?

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1 MR. LUFT: Objection, misstates his prior

2 testimony.

3 A. If Bank of England decided to list that

4 account there wouldn't be a debate, the account would be

5 closed. Regardless of any disquiet in the Muslim

6 community, it would be closed, end of story. Without

7 that Bank of England decision, the UK Government

8 presumably did not regard Interpal as being an account

9 worthy of closure, and I don't know the circumstances,

10 but European Union didn't follow OFAC either.

11 Q. If the Bank of England or the European

12 Union had listed Interpal as a terrorist organization,

13 the bank would have been compelled to close the account,

14 true?

15 A. Yes.

16 Q. It wouldn't have required any use of

17 judgment on the bank's part, right?

18 A. Yes.

19 Q. You wouldn't have had any discretion to

20 leave the account open, true?

21 A. Yes.

22 Q. My question is, are there identifiable

23 reasons to close the account, even if you are still

24 legally entitled in the UK to operate the account?

25 MR. LUFT: Objection, vague.

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1 A. I don't know.

2 Q. Can you look at Mr. Foster's e-mail right

3 above the e-mail we were just looking at. He writes:

4 "Guy, Ben is away all week so I am replying on

5 this. You are correct that filtering is a group wide issue

6 and that is why we have been working with key stakeholders

7 like Payment Operations to develop the policy and

8 capability. This continues and we know that it is a very

9 important element of our counter-terrorism efforts".

10 Would you agree that filtering is a very important

11 element of counter-terrorism efforts?

12 A. Yes.

13 Q. And nevertheless is it true that

14 in May 2004 RBS didn't have filtering capability?

15 MR. LUFT: Objection, mischaracterizes the

16 document.

17 A. RBS Group didn't have filtering

18 technologies back in 2004, not adequate ones.

19 Q. And that was more than two and a half

20 years after the attacks of 9/11?

21 A. Yes.

22 Q. Was that a concern to you, in May 2004?

23 A. The fact that the bank didn't have

24 filtering arrangements in place at that time was not out

25 of line with the other players in the UK market.

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1 Q. Was the bank's lack of that capability of

2 concern to you, in May 2004, as head of the MLPU?

3 A. I don't recall.

4 Q. Mr. Foster goes on to write Mr. Cole,

5 last sentence in the second paragraph:

6 "You are right to highlight the reputational

7 issues but if management decide they don't want the

8 relationship, there are ways to exit that might not

9 cause a problem."

10 When you received this e-mail from Mr. Foster

11 in May 2004, did you understand him to agree with

12 Mr. Cole that reputational issues to the bank were

13 important?

14 MR. LUFT: Objection, misstates the document.

15 A. I honestly do not recall.

16 Q. Mr. Foster writes:

17 "There are ways to exit that might not cause

18 a problem."

19 Do you see that?

20 A. Yes.

21 Q. Do you know what ways to exit Mr. Foster

22 had in mind?

23 A. Absolutely no idea. I would be

24 interested. I would like to ask that question to

25 Mr. Foster.